

Appendix Exhibit 104

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Counsel for Highland Capital Management, L.P.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	
	§	Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P., ¹	§	
	§	Case No. 19-34054-sgj11
Debtor.	§	
	§	

**DEBTOR'S MOTION TO DISQUALIFY WICK PHILLIPS GOULD & MARTIN,
LLP AS COUNSEL TO HCRE PARTNERS, LLC AND FOR RELATED RELIEF**

Highland Capital Management, L.P., the debtor and debtor-in-possession (the "Debtor" or "Highland") in the above-captioned chapter 11 case (the "Bankruptcy Case"), by and through its undersigned counsel, files this motion (the "Motion") seeking entry of an order: (i) directing the disqualification of Wick Phillips Gould & Martin, LLP ("Wick Phillips") as counsel to HCRE

¹ The Debtor's last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

Partners, LLC (“HCRE”) in connection with the prosecution of HCRE’s Claim;² (ii) directing Wick Phillips to immediately turnover to the Debtor all files and records relating to the LLC Agreement, the Loan Agreement, and the Restated LLC Agreement; and (iii) directing HCRE to (a) reimburse the Debtor all costs and fees incurred in making this Motion, including reasonable attorneys’ fees; (b) engage substitute counsel in connection with the prosecution of HCRE’s Claim within fourteen (14) days of the entry of this Order; and (c) disclose all communications it (or anyone purporting to act on its behalf, including Wick Phillips) has had with Mark Patrick and Paul Broaddus concerning HCRE’s Claim. In support of the Motion, the Debtor respectfully states the following:

JURISDICTION AND VENUE

1. This Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334(b). The Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (O).
2. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1409.
3. The predicate for the relief requested in the Motion is section 105(a) of title 11 of the United States Code (the “Bankruptcy Code”).

RELIEF REQUESTED

4. The Debtor requests that this Court enter the proposed form of order attached hereto as **Exhibit A** (the “Proposed Order”) pursuant to section 105(a) of the Bankruptcy Code.
5. For the reasons set forth more fully in the Debtor’s Memorandum of Law filed contemporaneously with this Motion, the Debtor seeks (i) disqualification of Wick Phillips as counsel to HCRE in connection with the prosecution of HCRE’s Claim and (ii) related relief.

² Capitalized terms not otherwise defined in this Motion have the meanings ascribed to them in the *Debtor’s Memorandum of Law in Support of Motion to Disqualify Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief* (the “Memorandum of Law”) being filed contemporaneously herewith.

6. Wick Phillips' continued representation of HCRE constitutes a direct conflict of interest. While the full scope of Wick Phillips' prior representation is unclear, there can be no credible dispute that a substantial relationship exists between Wick Phillips' current representation of HCRE in connection with the prosecution of HCRE's claim and its prior representation of the Debtor. Wick Phillips' representation of HCRE thus threatens its duty of loyalty and confidentiality to the Debtor. Applicable ethical rules proscribed by (i) the American Bar Association's Model Rules of Professional Conduct (the "ABA Model Rules"), (ii) the Texas Disciplinary Rules of Professional Conduct (the "Texas Rules"), and (iii) the local rules of the deciding court require disqualification of Wick Phillips.

7. In accordance with Rule 7007-1 of the *Local Bankruptcy Rules of the United States Bankruptcy Court for the Northern District of Texas* (the "Local Rules"), contemporaneously herewith and in support of this Motion, the Debtor is filing its: (i) Memorandum of Law, and (ii) *Declaration of John A. Morris Submitted in Support of the Debtor's Motion to Disqualify Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief* (the "Morris Declaration").

8. Based on (i) the facts and arguments set forth in the Memorandum of Law and (ii) the exhibits attached to the Morris Declaration, the Debtor is entitled to the relief requested herein as set forth in the Proposed Order.

9. Notice of this Motion has been provided to Wick Phillips, individually and in its capacity as counsel to HCRE. The Debtor submits that no other or further notice need be provided.

WHEREFORE, the Debtor respectfully requests that the Court (i) enter the Proposed Order substantially in the form annexed hereto as **Exhibit A** granting the relief requested herein, and (ii) grant the Debtor such other and further relief as the Court may deem proper.

Dated: April 14, 2021.

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EXHIBIT A

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

HIGHLAND CAPITAL MANAGEMENT, L.P.,¹

Debtor.

)
) Chapter 11
)
) Case No. 19-34054-sgj11
)
)
)

**ORDER GRANTING MOTION TO DISQUALIFY WICK PHILLIPS GOULD & MARTIN,
LLP AS COUNSEL TO HCRE PARTNERS, LLC AND FOR RELATED RELIEF**

This matter having come before the Court on the *Motion to Disqualify Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief* (the “Motion”)² filed by Highland Capital Management, L.P. (the “Debtor” or “HCMLP”); and this Court having considered: (i) the Motion, (ii) the exhibits attached to the *Declaration of John A. Morris Submitted in Support of the Debtor’s Motion to Disqualify Wick Phillips Gould & Martin, LLP as Counsel*

¹ The Debtor’s last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

² Capitalized terms not otherwise defined in this Order shall have the meaning ascribed to them in the Motion.

to HCRE Partners, LLC and for Related Relief (the “Morris Declaration”) submitted in support of the Motion, and (iii) the *Debtor’s Memorandum of Law in Support of Motion to Disqualify Wick Phillips Gould & Martin, LLP as Counsel to HCRE Partners, LLC and for Related Relief* (the “Memorandum of Law”),

it is hereby **FOUND AND ORDERED** that:

1. The Motion is **GRANTED**.
2. Wick Phillips is disqualified from serving as counsel to HCRE in connection with the prosecution of HCRE’s Claim;
3. Wick Phillips is directed to immediately turnover to the Debtor all files and records relating to the LLC Agreement, the Loan Agreement, and the Restated LLC Agreement;
4. HCRE is directed to reimburse the Debtor all costs and fees incurred in making this Motion, including reasonable attorneys’ fees;
5. HCRE is directed to engage substitute counsel in connection with the prosecution of HCRE’s Claim within fourteen (14) days of the entry of this Order;
6. HCRE is directed to disclose all communications it (or anyone purporting to act on its behalf, including Wick Phillips) has had with Mark Patrick and Paul Broaddus concerning HCRE’s Claim;
7. The Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

###End of Order###